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:: PRESIDENT
 :: MEMBER-I

Mr. B. Ramesh

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The Public Information Officer,
Tamilnadu Information Commission,
No.2, Sir Thiagaraya Salai,
Teynampet, Chennai – 600 018.

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Date of complaint : 30.05.2011

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For the complainant : Party in Person.

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For the opposite party : M/s.G.R.Associates.

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THIRU. V. GOPAL, PRESIDENT.

Complaint under section 12 (1) of the Consumer Protection Act, 1986 for a direction to the opposite party to pay Rs.50,000/- as compensation for mental agony and Rs.50,000/- for deficiency in service of the complaint to the complainant.

1. The case of the complainant is briefly as follows:-

The complainant had sent an application to the opposite party on 05.04.2011 through speed post seeking information regarding 19 items under Sec.6(1) of Right to Information Act, 2005 and the same was received by the opposite party on 06.04.2011. The complainant also affixed court fee to the value of Rs.10/- in that application and so the complainant is a consumer. The opposite party is expected to furnish the information to the complainant within 30 days as per Sec.7(1) of the Right to Information Act, 2005 but, the opposite party has not furnished those information till date. Hence, the act of the opposite party amounts to deficiency in service.

2. The opposite party filed a written version and contented inter alia that, the opposite party performs its functions as the Public Information officer free of charge and as such functions would not constitute a service under Sec.2(o) of the Consumer Protection Act, 1986. The complainant's letter dt.05.04.2011 requesting certain information was received by the opposite party on 07.04.2011. Subsequently, the information requested by the opposite party was furnished by the opposite party on 23.06.2011. Further, the Public Information Officer, Personal and Administrative Reforms Department, Chennai and also furnished information to the complainant on 07.07.2011. As the complainant has received the information required by him already, the complainant cannot allege that, there has been deficiency in service on the part of the opposite party. If the complainant

was aggrieved with the information received from the opposite party or was of the opinion that he did not receive information within the stipulated time the complainant should have filed an appeal under Sec.19 of the Right to Information Act which he has done so. Hence, there is no deficiency in service on the part of the opposite party.



3. Proof affidavits have been filed by both the complainant and the opposite party. Ex.A1 to Ex.A6 were marked on the side of the complainant. Ex.B1 Ex.B7 were marked on the side of the opposite party.

4. **The points that arise for consideration are as follows:-**

- 1) Whether there is any deficiency in service on the part of the opposite party?
- 2) To what relief the complainant is entitled to?

5. **Point No.1:-** Ex.A1 is the copy of the application dt.05.04.2011 submitted to the opposite party, by the complainant seeking information with regard to 19 items. Ex.A1 and Ex.B1 are one and the same. Ex.A2 is the copy of the Delivery information of article issued by the speed post service. Perusal of Ex.A2 shows that, the article was delivered on 06.04.2011. Ex.A3 is the copy of the legal notice dt.09.05.2011 issued by the complainant to the opposite party. Ex.A4 is the copy of the order dt.28.05.2009 pronounced by National Consumer Disputes Redressal Commission, New Delhi. R.P.No.1975/2005. Ex.A5 is the copy of the order dt.03.01.2011 pronounced by the District Consumer Disputes Redressal

Forum, Tuticorin, C.C.No.57/2010. Ex.A6 is the copy of the reply dt.23.06.2011 sent by the opposite party to the complainant. Ex.A6 and Ex.B2 are one and the same.

6. Ex.B3 is the copy of the letter of the opposite party dt.28.06.2011 sent to complainant under Registered Post by the opposite party. Ex.B4 is the copy of the proof of delivery letter dt.27.07.2011 issued by Senior Superintendent of Post Officers, Chennai City Central. Ex.B5 is the copy of the letter dt.07.07.2011 sent by the opposite party to the complainant. Ex.B6 is the copy of the order in W.P.(M.D.) No.8084/2010 dt.28.01.2011. Ex.B7 is the copy of the order dt.09.08.2010 pronounced by the District Consumer Disputes Redressal Forum, Cuddalore, in C.C.No.1/2010.

7. The contention of the opposite party is that, the information requested by the complainant was furnished by the opposite party on 23.06.2011 under Ex.A6 and further the Public Information Officer, Personal and Administrative Reforms Department, Chennai and also furnished information to the complainant on 07.07.2011 under Ex.B5 and if, the complainant was aggrieved information received from the opposite party or was of the opinion that he did not receive the information within the stipulated time the complainant should have filed an appeal under Sec.19 RTI Act which he has done so and therefore the complaint is not maintainable. The case of the complainant is that, the information sought for the by the complainant has not been furnished within the stipulated time

and having paid required fee, the complainant is a consumer and the complaint is maintainable before this Forum.

8. Though, the applicant/complainant aggrieved by the order of the Public Information Officer can file first appeal under Sec.19(1) and second appeal under Sec.19 (3) of Right to Information Act, to get relief there is no power given to appellate authorities to order for compensation to the applicant. When the relief which could be obtained by the consumer under Consumer Protection Act as an additional remedy and when such remedy could not be granted by any other court or forum, then naturally to get that additional remedy the consumer can approach only the consumer forum and this view is clear from Sec.3 of the CPA, 1986.

9. The factum of the complainant made an application under Sec.6(1) of the RTI Act on 05.04.2011 requiring certain information is not disputed by the opposite party. The payment of court fee of Rs.10/- by the complainant as per the rules provided under the RTI act along with Ex.A1 is also not disputed by the complainant.

10. Ex.A1 was sent by the complainant on 05.04.2011 perusal of Ex.A2 shows that, the same was received by the opposite party on 06.04.2011. The complainant sent a legal notice under Ex.A3 calling upon the opposite party to furnish the information. Ex.A3 was sent by the opposite party on 09.05.2011. The complaint was filed on 30.06.2011. The information requested by the complainant has been furnished by the opposite party on



30.06.2011 under Ex.A6 and further, the Public Information Officer, Personal and Administrative Department, Chennai had also furnish the information to the complainant on 07.07.2011 under Ex.B5. The information as sought for by the complainant has not been furnished by the opposite party within the stipulated period but was furnished only after the expiry of the stipulated period.

11. The learned counsel for the opposite party relied on CDJ 2011 MHC 1313 and argues that, the above citation is aptly applicable to the facts of the present case. Further, the opposite party's counsel submitted the order pronounced by the DCDRF, Cuddalore in C.C.1/2010 and argues that, the above citation is applicable to the facts of the present case.

12. The learned counsel for the complainant relied on the decision of our National Commission and also the judgment pronounced by the Supreme Court of India in C.A.No.7543/2004 and argued that, the citations is applicable to the facts of the present case. We have perused above citations submitted by the complainant. From the above it is clear that, the complainant is the consumer and the opposite party is the service provider and so the complaint is maintainable in this forum. The decisions relied on by the opposite party are not applicable to the facts of the present case. The complainant submitted the application on 05.04.2011 requiring certain information from the opposite party and the opposite party had not furnished the information within the stipulated period but, furnished the

same only after filing of this complaint. From the above discussion this Forum is of the view that, the opposite party has committed deficiency in service to the complainant by not furnishing the information sought for by the complainant under RTI Act, 2005 within the stipulated period and the point is answered accordingly.



13. It is true that, the complainant would have suffered from mental agony and unnecessary expenses caused due to deficiency in service and so the opposite party is directed to pay a sum of Rs.5,000/- as compensation to the complainant towards the mental agony and unnecessary expense caused to the complainant due to deficiency in service by the opposite party. As the opposite party has not sought any unnecessary adjournment, no amount is imposed on the opposite party.

14. **Point No.2:-** In the result, the complaint is allowed and the opposite party is directed to pay Rs.5,000/- (Rupees Five Thousand only) as compensation towards mental agony to the complainant within six weeks from the date of receipt of copy of this order, failing which the amount shall carry interest at the rate of 9% per annum till the date of payment. No costs.

Dictated directly by the President to the Steno-Typist, transcribed and computerized by him, corrected by the President and pronounced by us in the open Forum on this the 6th day of June 2012.

Dr. [Signature]
MEMBER-I

[Signature]
PRESIDENT

Complainant Documents:-

1. Ex.A1 : Copy of the application dt.05.04.2011.
2. Ex.A2 : Copy of the Delivery information of article issued by the speed post service.
3. Ex.A3 : Copy of the legal notice dt.09.05.2011 issued by the complainant to the opposite party.
4. Ex.A4 : Copy of the order dt.28.05.2009 pronounced by National Consumer Disputes Redressal Commission, New Delhi. R.P.No.1975/2005.
5. Ex.A5 : Copy of the order dt.03.01.2011 pronounced by the District Consumer Disputes Redressal Forum, Tuticorin, C.C.No.57/2010.
6. Ex.A6 : Copy of the reply dt.23.06.2011 sent by the opposite party to the complainant.

Opposite party Documents:-

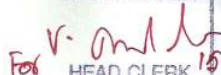
1. Ex.B1 : Copy of the application dt.05.04.2011.
2. Ex.B2 : Copy of the reply dt.23.06.2011 sent by the opposite party to the complainant.
3. Ex.B3 : Copy of the letter of the opposite party dt.28.06.2011 sent to complainant under Registered Post by the opposite party.
4. Ex.B4 : Copy of the proof of delivery letter dt.27.07.2011 issued by Senior Superintendent of Post Officers, Chennai City Central.
5. Ex.B5 : Copy of the letter dt.07.07.2011 sent by the opposite party to the complainant.
6. Ex.B6 : Copy of the order in W.P.(M.D.) No.8084/2010 dt.28.01.2011.
7. Ex.B7 : Copy of the order dt.09.08.2010 pronounced by the District Consumer Disputes Redressal Forum, Cuddalore, in C.C.No.1/2010.


MEMBER 6612


PRESIDENT 661

1. Date of order	6-6-2012
2. Date when copy was made ready for issue	15-6-2012
3. Date of delivery / dispatch of copy	15-6-2012
4. Date of application for duplicate	
5. Date of issuance of duplicate copy	

28/15/6/12

For  HEAD CLERK 15/6/12